

## California Fair Political Practices Commission

### MEMORANDUM

**To:** Chairman Getman and Commissioners Downey, Knox, and Swanson

**From:** Holly B. Armstrong, Commission Staff Counsel  
Carla Warlow, Chief, Technical Assistance Division  
Luisa Menchaca, General Counsel

**Re:** CalPERS Reporting Regulations - Pre-Notice Discussion of Proposed  
Amendment to Regulations 18451 and 18452

**Date:** May 21, 2002

---

#### I. Introduction

Regulations 18451 and 18452 were originally adopted, with several other regulations, to implement the provisions of Government Code § 84225,<sup>1</sup> which was added to the Political Reform Act (“Act”) in 1998. Section 84225 pertains to certain elections conducted by the Board of Administration of the Public Employees’ Retirement System (“board” or “CalPERS”). The board consists of 13 members (20 with alternates), six of whom are elected, the balance being appointed positions. The six elected members are not elected in elections voted upon by the general electorate. They are voted upon solely by a particular constituent group under elections supervised by CalPERS. (Section 20090.)<sup>2</sup> These elections are scheduled over a four-year period, in scattered terms.

Section 84225 requires candidates for the six elected board seats, including incumbent board members running for reelection, to file campaign statements containing the information required under section 84211, to the extent the information is applicable to a board election. Section 84225 also dictates the timeframe within which the first and final campaign statements

---

<sup>1</sup> All statutory references are to the Government Code, unless otherwise specified.

<sup>2</sup> The board consists of: 1) one member of the State Personnel Board; 2) the Director of the Department of Personnel Administration; 3) the State Controller; 4) the State Treasurer; 5) an official of a life insurer and an elected official of a contracting agency, appointed by the Governor; 6) a public member appointed by the Speaker of the Assembly and the Senate Committee on Rules; and 7) six members elected under the supervision of the board. This last category includes: 1) two members elected by the members of the PERS system (“system”) from the membership; 2) a member elected by the active state members of the system from the state membership; 3) a member elected by and from the active local members of the system who are employees of a school district or a county superintendent of schools; 4) a member elected by and from the active local members of the system other than those who are employees of a school district or a county superintendent of schools; and 5) a member elected by and from the retired members of the system. (Section 20090.)

must be filed. Regulation 18452, adopted to implement section 84225, provides the schedule for the filing of the campaign statements, and sets forth the required content of the statements.

CalPERS promulgated a regulation instituting runoff elections in November 2000. Regulation 554.6 became effective on January 16, 2002.<sup>3</sup> Because current regulation 18452 makes no provision for filing campaign statements pursuant to section 84225 in connection with a runoff, staff is proposing amendments to the regulation and Form 900 to capture fundraising activity and expenditures in connection with those elections.

## **II. Proposed Amendments to Regulation 18452**

### **A. Framework**

The timing framework within which the campaign statements must be filed is dictated by section 84225, which states:

“(c) Candidates for board seats described in subdivision (g) of Section 20090, including incumbent board members running for reelection, shall file campaign statements with the Secretary of State no later than two days before the beginning of the ballot period, as determined by the board, for the period ending five days before the beginning of the ballot period, and no later than January 10, for the period ending December 31.” (Govt. Code § 84225(c).)

Accordingly, the timeframe within which all of the campaign statements must be filed is already set by statute.

Under the current version of regulation 18452, two campaign statements are required to be filed by candidates for the CalPERS board which, together, cover the entire calendar year in which the election is conducted. Under the current regulation, these campaign statements are called the “first” and “second” statements.” The amendments to subdivisions (b)(1) and (b)(2) change these terms to a “pre-election” and “post-election” statement. In addition, subdivision (b)(2), which addresses special election procedures, is renumbered as (b)(3), to accommodate the insertion of a provision dealing with a runoff election.

The most substantial amendments to the regulation are the insertion of a new subdivision (b)(2) and the addition of subdivision (b)(4), each of which provides for the filing of an additional campaign statement in the event of a runoff election in a regular election and a special election, respectively.

---

<sup>3</sup> Regulation 554.6 is currently the subject of a complaint for declaratory and injunctive relief, and writ of mandate, which is scheduled for hearing on June 14, 2002. However, at this time, regulation 554.6 is in effect. Further, a typographical error was made in the final version of the regulation sent to the Office of Administrative Law that limits the applicability of the runoff provision to only elections for the at-large members of the board. CalPERS intends to amend regulation 554.6 to correct this error.

“(b)(2) In the case of a runoff election, in addition to the pre-election statement specified in subdivision (b)(1) of this regulation, each candidate participating in the runoff election shall file a pre-runoff election statement no later than two days before the first day of the runoff ballot period. The statement shall cover the period beginning the day after the closing date of the pre-election statement specified in subdivision (b)(1) of this regulation and ending five days before the beginning of the runoff ballot period. The post-election statement specified in subdivision (b)(1) of this regulation shall be filed no later than January 10 of the calendar year following the election year; it shall cover the period beginning the day after the closing date of the pre-runoff election statement and ending December 31 of the election year.

“¶ . . . ¶

“(4) In the case of a runoff election held after a special election, in addition to the pre-election statement specified in subdivision (b)(3), each candidate participating in the runoff election shall file a pre-runoff election statement no later than two days before the first day of the runoff ballot period. The statement shall cover the period beginning the day after the closing date of the pre-election statement specified in subdivision (b)(3) of this regulation and ending five days before the beginning of the runoff ballot period. The post-election statement specified in subdivision (b)(3) of this regulation shall be filed no later than 40 days following certification of the election; it shall cover the period beginning the day after the closing date of the pre-runoff election statement and ending 30 days after certification of the election.”

**B. Deadlines**

The deadlines for filing the campaign statements would change each year, and is dependent on the ballot schedule set by CalPERS. The practical implementation of the regulation and the amended regulation are illustrated below, based on the 2002 CalPERS Election Schedule. The first chart represents the schedule for the election as the regulation currently stands. The second chart encompasses the proposed amendment to the regulation, providing for the possibility of a runoff election. Either scenario is still possible under the regulation as amended, depending on the outcome of the first round of the election.

### **REGULAR ELECTION WITHOUT RUNOFF**

<b>Ballot Period Begins</b>	<b>Filing Deadline</b>	<b>Type of Statement</b>	<b>Period Covered by Statement</b>
August 19, 2002	August 17, 2002	Pre-election	January 1-August 14, 2002
	January 10, 2003	Post-election	August 15-December 31, 2002

### **REGULAR ELECTION WITH RUNOFF**

<b>Ballot Period Begins</b>	<b>Filing Deadline</b>	<b>Type of Statement</b>	<b>Period Covered by Statement</b>
August 19, 2002	August 17, 2002	Pre-election	January 1-August 14, 2002
November 19, 2002 <sup>4</sup>	November 18, 2002 <sup>5</sup>	Pre-runoff	August 15-November 14, 2002
	January 10, 2003	Post-election	November 15-December 31, 2002

The deadlines for a special election would be similar, but would be based on a schedule that would be determined by CalPERS for that particular special election.

There is also a minor amendment of subdivision (f)(2), in which a reference to subdivision (b)(2) is corrected to reflect the subdivision's new number, (b)(3).

## **IV. Proposed Amendments to Regulation 18451**

The proposed amendments to regulation 18451 are non-substantive additions to subdivisions (c), (e) and (f) for clarification purposes only. Subdivisions (c), (e) and (f) define the terms "candidate" "election year" and "ballot period," respectively. Under the current versions of the regulation, the definitions appear, by their reference to section 20096, to apply only to regular elections. The amendment would add a reference to section 20095 to each subdivision, which would clarify that the definitions are also applicable to special elections. In addition, in subdivision (f), the definition of "ballot period" includes a beginning point for the

---

<sup>4</sup> Runoff Ballot Period begins.

<sup>5</sup> November 17, 2002 falls on a Sunday. Pursuant to Civil Code § 11, the deadline, therefore, moves to the next business day, which is Monday, November 18.

ballot period, but does not include an ending point. The amendment would add language to indicate when the ballot period ends.

**V. Draft Revisions to Form 900 -- Public Employees Retirement Board Candidate Campaign Statement**

Also attached is a copy of the CalPERS candidate statement (Form 900). The form has been revised to accommodate an additional campaign filing if a runoff election is held. Changes to the form are highlighted.